

MT LEGISLATIVE HISTORY

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Chapter 524 1983

Bill (H) 705 S _____

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Feb 15 ✓ C

Hearing Date(s) Mar 16 ✓ C

Feb 16 ✓ C

Mar 17 ✓ C

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Mar 22 ✓ C

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Date Out Feb 16 ✓ C

Mar 22 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

STATUS SHEET

JUDICIARY

COMMITTEE

48th Legislature

Bill No.	Subject matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
05	An act increasing certain district court fees, re-distributing the percentage amount of court fees deposited, etc.	2/10/83	Rep.Spaeth	2/15/83	Do Pass As Amended	2/16/83
4	An Act to establish procedures to be followed by the Human Rights Commission in the enforcement of the Governmental Code, etc.	2/10/83	Rep.Spaeth	2/15/83	Do Pass, As Amended	2/15/83
1	To adopt 1978 Revisions to the Uniform Federal Lien Registration Law;	2/14/83	Rep.Ramirez	2/17/83	Do Pass	2/17/83
1	To provide that the training services of the county attorney training coordinator may be made available to city attorneys, etc.	2/14/83	Rep. Addy	2/17/83	Do Pass	2/17/83
1	An act adding two judges to the Office of the Workers' Compensation Judge;, etc.	2/14/83	Rep. Addy	2/18/83	Table	2/19/83
8	An act to give surveyors the right of access onto private property when necessary for the completion of a survey.	2/14/83	Rep. Wallin	2/18/83	Table	2/19/83

MINUTES OF THE JUDICIARY COMMITTEE
February 15, 1983

The meeting of the House Judiciary Committee was called to order by Vice-chairman Kelly Addy at 8:04 a.m. in room 224A of the capitol building, Helena, Montana. All members were present with the exception of Chairman Brown, Representative Schye and Representative Seifert, who were excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

HOUSE BILL 705

The committee moved to room 130 to hear this bill jointly with the House State Administration Committee.

REPRESENTATIVE SPAETH, District 71, Silesia, stated that this bill was sponsored by the Public Employees' Retirement Division, which deals with the judges' retirement system, which is not in very good shape at this time. He indicated that the bill does three things: (1) it increases two of the court fees from \$20.00 to \$25.00; (2) it essentially reduces the amount of money that goes into the county general fund; and (3) it increases the contribution to 7 per cent from the judges, who are paying into the system.

STEVE BROWN, representing the Montana Association of Judges, said that this is an attempt to deal with the solvency of the judges' retirement system; the amount of the contribution to the judges retirement must be immediately increased by approximately 12 per cent in total contributions to make the system solvent; and that translates into roughly \$150,000.00 to \$200,000.00 a year additional funding that will have to be provided.

He indicated that there is a portion of district court fees that goes into the state general fund; over the past three years, the amount of money going into the state general fund has been reduced; and he passed out a fact sheet that explains what this bill attempts to do. See EXHIBIT A. He went over the fact sheet with the committee item by item.

He advised that what they are proposing to do in this bill is to raise only two district court fees - the

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filing fee for filing a complaint would be raised from \$20.00 to \$25.00; and the filing fee for answering would be raised from \$10.00 to \$15.00. He indicated that under present statutes, 60 per cent of the district court fees go to the state of Montana and 40 per cent goes to the counties; if they assume they will have 25,500 cases and receive an additional \$10.00 on each case, that would be an additional \$255,000.00 in revenue. He advised that they are also changing the allocation from 60/40 to 70/30 to ensure that the increased funding was passed on to the state and would be available for the retirement system.

He informed the committees that they are also concerned about not reducing the amount of funds available to the counties; the amount going to the counties would be \$316,000.00, which exceeds the \$315,000.00 that was available to the counties in fiscal year 1982; so he did not feel that they would reduce, in any way, the amount of money that would be available to the counties.

He continued that they also proposed that rather than 20 per cent of the judges' total salary being paid into the retirement system, they would increase this to 31 per cent; and also, the judges would increase their contribution to the retirement fund from the existing 6 per cent to 7 per cent; and this would apply to all judges after July 1, 1983, once they are elected, re-elected or appointed.

Additional material was also presented to the committees. See EXHIBIT B.

LARRY NACHTSHEIM, Administrator of the Public Employees' Retirement System of the Department of Administration, said that the 1 per cent increase in the judges' salaries for judges re-elected or appointed in the future is a technical consideration because there is a constitutional question as to whether you can change the rate to a current judge.

There were no further proponents and no opponents.

REPRESENTATIVE SPAETH agreed that they need to do something with the judges' retirement system; a great deal of thought has gone into this bill and he thinks it is a workable solution to an otherwise sticky problem; and he urged the committees to adopt this bill.

REPRESENTATIVE MUELLER asked where does the 30 per cent on page 2 come from. MR. BROWN replied that the present language is in section 19-5-405; first it establishes how the money is allocated between the counties and the state; on line 23, the existing law provides for an amount equal to 20 per cent of the salaries of district judges and supreme court justices be deposited into the fund; and they are amending that section to 31 per cent so that a major portion of the increased share can go into the retirement system.

REPRESENTATIVE HAMMOND asked what the counties use this 30 per cent for. MR. BROWN responded that it goes into the county general fund; the bill that was introduced in 1981, which doubled the district court fees, was introduced at the request of the clerks of the court; and this was a bill to not only solve the judges' retirement problems, but to increase revenues to county governments.

REPRESENTATIVE PHILLIPS asked what kind of percentages does a judge have when he retires and how does that compare to other systems. MR. NACHTSHEIM answered that judges are eligible for retirement at 65 years of age with five years of service; they receive 3 1/3 per cent of their salary for each year's service up to fifteen years of service, plus 1 per cent for each year of service thereafter; 3 1/3 per cent times 15 years equals 50 per cent of their salary, if there were 15 years of service. He advised that if someone had twelve years of service and was involuntarily retired (that is, not re-elected), they are eligible to retire immediately without reduction; and anybody who does so voluntarily can retire at age 60 with an actuary reduction. He explained that the provision that causes problems is the one which says that the judges' retirement is based on the salary of the position from which he retired; so it means that when a justice gets a raise, the retirees get a portion of it based on their years of service; and it is an automatic cost-of-living increase.

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REPRESENTATIVE EUDAILY asked if they could elaborate on this cost-of-living increase. MR. NACHTSHEIM advised that it is not a cost-of-living provision per se, but, in effect, it works as a cost-of-living provision; the judges' retirement is based on the salary of the position from which they retired; when a current district judge gets a raise, all the retired district judges or their beneficiaries get a proportional raise. He clarified that if the judges get a raise, a retiree, who had retired after fifteen years of service would get half of that raise because their retirement is based on current salary.

REPRESENTATIVE KEYSER noted that they were assuming a \$800,000.00 fee income under the existing structure; yet there was a continuous drop from fiscal year 1980 to fiscal year 1982; and he wondered why they are assuming in fiscal year 1983, under the present system, that it is going to increase to \$800,000.00, and not decrease to \$760,000.00. MR. BROWN answered that they did not have figures for 1983; and, as soon as they get them, they can plug them in; the trend has been down; it is a mystery to him why the overall collections to the county is down; and the information he had for the first six months of 1983 was that the filing fees were about the same, if not a little higher, than 1982.

REPRESENTATIVE KEYSER indicated that if his assumptions are a little off, and this 30 per cent to the counties drops down very much, the counties are not going to be receiving any additional moneys, according to the facts that he has there. MR. BROWN said that he thought the committee should take a look at that; they might want to go to 69/31 or 68/32, because then there is some cushion for the state general fund.

REPRESENTATIVE KEYSER asked how many of the employees under the PERS system and the others that he manages receive an increase based on the people in their profession receiving increases and their getting a portion of that. MR. NACHTSHEIM responded that there were three in the eight systems that they have - the judges, the police officers and the firemen.

REPRESENTATIVE KEYSER asked if that is possibly why these systems have had more problems actuarially than some of the other systems. MR. NACHTSHEIM answered that he believed that was the case in the judges' system; but in the police and fire systems, there was consideration for that in the mechanism.

REPRESENTATIVE KEYSER questioned if the judges were not receiving this automatic increase, would the fund be more solvent than it is now. MR. NACHTSHEIM replied that that would be true of any retirement system - if you take some benefits away, the retirement system will be more soundly funded.

REPRESENTATIVE HANNAH queried if a problem has been created by the fact that the judges' retirement system has automatic increases based on the current level of salaries, and if we adopt this bill, do they have any idea how long it will be before they have that problem again. MR. NACHTSHEIM responded that the action that they are looking at today should have been taken at the time the law was drafted; because the system is based on salaries, it is their position that this would fund the program; and because of the increase in salaries, they will have more income to compensate for the increase in benefits.

REPRESENTATIVE HANNAH commented that he does not understand that - he thought they were just increasing this funding base from 6 per cent to 7 per cent. MR. NACHTSHEIM answered that they are also increasing the contribution they are taking from the court fees as 31 per cent of their salary - not 31 per cent of the court fees.

REPRESENTATIVE HANNAH noted that the formula under which they are operating now is 20 per cent contribution by the state and he wondered what the formula is. MR. NACHTSHEIM answered that it is 6 per cent by the judges, 6 per cent by the state and 20 per cent of the salaries from the court fees.

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REPRESENTATIVE HANNAH asked, "The 20 per cent is from court fees?" He thought they said that the contribution that they have now is not a percentage of salaries. MR. NACHTSHEIM explained that the original bill gave them 25 per cent of court fees - it has been changed along the way to 20 per cent of salaries.

REPRESENTATIVE RAMIREZ noted that if they take 31 per cent of the judges' salaries out of the state share, as the salaries go up, the state share will go up; the state general fund share is going to go down; and he wondered when they will finally wipe out the state general fund share. MR. NACHTSHEIM responded that he didn't know.

REPRESENTATIVE EUDAILY asked in addition to the 31 per cent and the 7 per cent, are they also putting in the 6 per cent from the general fund on top of that. MR. BROWN replied that that is existing law and is not going to be changed.

REPRESENTATIVE EUDAILY said that they are putting more judges on; they are going to have more people to cover by this retirement; if they keep this retirement system so liberal, how can they possibly maintain a system like this and be fair to the state and the people who have to put in the money. MR. BROWN replied that he understood his concern and he would be willing to meet with the members of this committee to resolve this.

REPRESENTATIVE KOEHNKE asked how soon will the other systems want to be tied to raises in salaries of the present workers. MR. NACHTSHEIM answered that he thought it would be difficult for the other systems to do this.

MR. BROWN indicated that he would like to respond to Representative Eudaily's question - the state's contribution would be 37 per cent and 31 per cent out of district court fees plus the 6 per cent matching; the judges are contributing 6 per cent now and that would be raised to 7 per cent with this bill.

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REPRESENTATIVE FARRIS said that she could see three ways that the committee could adjust this - the retirement could be fixed at the time of retirement; it could be based on the cost-of-living, like Social Security; or it could be done like the policemen and she wondered if there were other ways or is this basically what there is. MR. BROWN responded that he did not know right now; and that is something they would have to explore.

MR. NACHTSHEIM pointed out that they can only change it for future judges.

REPRESENTATIVE ADDY indicated that there is a very strong judicial doctrine that says that a judge's salary shall not be decreased while he is in office; this is to insulate him from the mob rule or the passions of the majority; if you can decrease his retirement, you could influence his or her decisions; or if, when they run again, they could say that he is only going to get half of his retirement, thereby encouraging him to retire; and this would be the same kind of untoward influence.

REPRESENTATIVE BRAND noted that they only have 36 contributors to this system and he wondered being there is such a small number of contributors, could it be consolidated with other systems. MR. NACHTSHEIM responded that that would be against federal law more than state law.

REPRESENTATIVE BRAND felt that the local districts were paying more in proportion and less than one-quarter of the judges are in the supreme court system; and he thought the state wasn't contributing its fair share, according to these figures. MR. NACHTSHEIM answered that the idea was to tie the contributions to the court fees; similar to that of the highway patrol on the basis of drivers license fees.

REPRESENTATIVE BRAND asked if there were any fees coming in for the supreme court. MR. NACHTSHEIM responded that they get 1 per cent of those fees.

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REPRESENTATIVE BRAND indicated that 1 per cent of those fees are minute. MR. NACHTSHEIM advised that the per cent can be anything that the legislature decides.

REPRESENTATIVE ADDY commented that the fees should be kept as low as possible to maintain good access to the courts and he asked if there was any other good funding source. MR. BROWN replied that there has not been comparisons made as far as what they are doing in other states.

REPRESENTATIVE DAILY asked how many judges retired at the beginning of this year. MR. NACHTSHEIM responded that nine judges retired - seven on the judges' retirement and two on PERS.

REPRESENTATIVE DAILY asked if they have to work fifteen years as a judge to retire at half salary. MR. NACHTSHEIM replied, "Yes."

REPRESENTATIVE DAILY asked if they could retire and still practice law and MR. NACHTSCHEIM replied that they could.

There were no further questions on this bill and the hearing was closed.

The members of the committee returned to room 224A.

HOUSE BILL 714

REPRESENTATIVE SPAETH, District 71, Silesia, said that this bill was introduced at the request of the Commission for Human Rights; the legislature passed the Montana Human Rights Act and also passed the Governmental Code of Fair Practices Act, which are essentially two separate acts; the legislature implemented the enforcement provisions of the Human Rights Act without taking like action for the Governmental Code of Fair Practices Act; and he said this bill adopts the same, almost identical provisions in the Governmental Code of Fair Practices Act as they adopted in the Human Rights Act.

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Saturday; the Speaker has asked them to keep their hearing calendar clear for Monday, Tuesday and Wednesday of next week so their time was limited.

REPRESENTATIVE RAMIREZ advised that the problem they have is not so much in the committee but, for those who have not been here before, the next few days are going to be horrible and the more of these things that they put off in the last few days may not even make it across; they had 138 bills brought up yesterday from the Legislative Council and he understands that 100 of them were filed in the House; and if you just take 100 bills at the rate they have been going, that is five days worth of work; and he felt that they were going to have such a jam in the next few days that these bills are not going to be considered very well.

The motion failed with REPRESENTATIVE FARRIS and REPRESENTATIVE DAILY voting no.

REPRESENTATIVE EUDAILY moved that the bill DO PASS AS AMENDED. REPRESENTATIVE SPAETH seconded the motion.

REPRESENTATIVE CURTISS indicated she had a question about rulemaking authority and wondered if this was consistent with all other language.

REPRESENTATIVE ADDY asked if the Human Rights Act has rulemaking authority. MS. MacINTYRE responded that they do and it is contained in 49-2-204 and it is very broad.

The motion passed unanimously.

STATEMENT OF INTENT ON HOUSE BILL 714

REPRESENTATIVE JENSEN moved that this DO PASS. The motion was seconded by REPRESENTATIVE EUDAILY.

The motion passed unanimously.

HOUSE BILL 705

REPRESENTATIVE DAILY moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE JENSEN.

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REPRESENTATIVE EUDAILY asked if the State Administration Committee is going to come out with a recommendation also.

VICE-CHAIRMAN ADDY responded that they could handle any specific problems they have with the bill and he would guess that they will appoint a subcommittee to address any potential amendments.

REPRESENTATIVE HANNAH said that he thought the root problem is not solved by this bill; the root problem is that the judges' retirement fund is out of balance; he sees this bill as a bandaid; it will be, maybe, only two legislative sessions down the road that they will be back and they will be dealing with the same thing; and as far as he was concerned the answer is to interrupt what is commonly called the COLA (the cost-of-living increase). He felt that the committee should work on fixing that rate so that henceforth they will know how much the judges will get. He thought they would be far ahead so that they will know what they are going to get when they retire and it should be made so that it is actuarially sound; because this solves nothing - all this is is charging the people more money, charging the judges more money and charging everybody that is involved in this more money and it doesn't solve the problem.

REPRESENTATIVE EUDAILY advised that he served on the subcommittee about four years ago that studied retirement and pension systems in the state of Montana; there are nine systems - eight under PERS and the Teachers' Retirement - and the first thing they had to do was to come to the conclusion that three of the systems were outside of what they were trying to do; and they were trying to build in a cost-of-living adjustment to all retirement systems; they immediately found that the firemen, the policemen and the judges had already taken care of that in their own systems, so they just dropped them to the side and worked on the other six systems and that is what came out in House Bill 45 the last time; and it didn't get very far. He indicated that the problems you see in this is the fact that there is

an automatic cost-of-living built in because they have tied themselves to something that fluctuates; when a teacher retires they retire on the average of their last three years and their highest three years; and it never increases until something else happens to increase it for everybody. He felt that the way this is set up he doesn't see how they are ever going to be actuarially sound, because the salaries are going to keep going up; and the only solution to that is for more money to go in to help. He continued that, if you add up all those percentages that are going in right now, there is 45 per cent of the judges' salaries going to cover retirement and their unfunded liability; and that is the highest of any pension system in the state; and he thought that Representative Hannah is right - that they are going to have to take a look at this, because he felt it was too rich for their blood.

REPRESENTATIVE KEYSER informed the committee that in a five-year period, and no more than six, the general fund moneys will be right up there at \$2,500,000.00; he has some specific problems with the bill itself; he does not like the fluctuation; and the majority of the retirees of the state of Montana are on a system that does not fluctuate. He noted on the figures from the sponsor on the fact sheet under "Allocation of District Court Fees under Present Law", they use an assumption there of an \$800,000.00 income under existing fee structure; and yet, using the figures they show up above, they show a decrease each year of the total fees; and he honestly questions that they are now in 1983 going to get an increase; in fact, he thought they would show another decrease which might be down around \$766,000.00; if they take that and put the additional income fee that he has proposed, he thought that the counties may not get as much money as they are getting now; and he did not think that any county in the state of Montana can afford this judges' system to cost them more money - it is costing them too much now and they are looking for the state to pick up more, not less. He continued that if they don't change those percentages of 30 per cent to the

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county and 70 per cent to the state (and he realizes that they can't change it much), but he wants to make blasted sure that at least they break even. He would like to see it around 31 per cent or 32 per cent to the counties and 69 or 68 per cent to the state.

REPRESENTATIVE SPAETH said that he had no problems with that, and whatever they do, it will be arbitrary because it is based on projections. He asserted that this bill is a bandaid, but he felt, at this stage, it is a necessary bandaid; but they do have to follow up and put a cap on that some way or other; he is not prepared to come up with solutions; the next week and a half is not a time to overhaul the judges' retirement system, but he hoped that this would be looked at as a bandaid and they will have to take some other action some time.

REPRESENTATIVE BERGENE stated that she absolutely and completely agrees with Representative Hannah.

REPRESENTATIVE EUDAILY noted that on page 2 of the "Actuarial Valuation", it says that 33.40 per cent of the salary will take care of their accrued benefits of the present ones in the future, but an additional 11.94 per cent is to amortize the current unfunded liability; and what they are trying to do is correct the whole problem with this particular bill; he thought it might correct it to a point, but the problem is going to be increased. He asked if the bill is written in such a way that they could put a sunset on it of this increase in four years and force somebody to do something about it.

REPRESENTATIVE ADDY commented that a question that came to his mind is to put a cap on the cost-of-living increase.

REPRESENTATIVE EUDAILY said that he thought you could do it for the new ones coming in but you would have to write a new provision in the law that would take out the cost-of-living, but anybody that kept getting reelected, it would still pertain to them.

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REPRESENTATIVE SPAETH stated that he thought that should be done, but he doesn't think they have the information to write that in and how it will impact this in the future.

REPRESENTATIVE EUDAILY said that he understood what he was saying, but how are they going to bring it to a head - that is the problem.

REPRESENTATIVE SPAETH said he agreed; the judges will be coming back in here and they will find some individual to carry it again; they will come in and say they have a real problem; they have a mandate here; they will be happy to work out a solution; and that could be happening five years down the road; but he doesn't know how to do it.

REPRESENTATIVE JENSEN noted that the obvious way to bring this to a head is to kill the bill; then they are going to have to deal with it.

REPRESENTATIVE SPAETH replied that if you kill the bill, you are not even being halfway responsible and he felt that this bill gives them some time to come up with an alternative.

REPRESENTATIVE HANNAH contended that he did not see this as being that big a problem; if they can work out the percentages to do what this bill wants to do and at the same time eliminate the COLA in the future, and he asked if that was so hard to do.

REPRESENTATIVE RAMIREZ suggested that they appoint a subcommittee to meet with a subcommittee of the State Administration Committee and try to get this thing done and he moved that a subcommittee be appointed. REPRESENTATIVE KEYSER seconded the motion.

The motion carried unanimously.

VICE-CHAIRMAN ADDY appointed REPRESENTATIVE SPAETH, REPRESENTATIVE EUDAILY and REPRESENTATIVE JAN BROWN as members of this subcommittee.

2/15/83

FACT SHEET CONCERNING HOUSE BILL 705
MONTANA JUDGES' RETIREMENT SYSTEM

TOTAL CASES FILED IN MONTANA DISTRICT COURTS

	<u>1980</u>	<u>1981</u>	<u>1982</u>
	31,345	32,393	30,000 (est.)
Less Criminal Cases	2,771 (8.8%)	3,238 (9.9%)	2,700 (9% est.)
	<u>28,574</u>	<u>29,155</u>	<u>27,300</u>

- (A) 20% of cases filed in 1st Judicial District involve political subdivisions and no fee collected from governmental entity;
- (B) Assume 10% of civil cases filed statewide involve political subdivisions;
- (C) Average case filings for last 3 years = 28,343;
- (D) Less cases involving political subdivisions (10% statewide average) = 25,509 fee cases;
- (E) If filing fees in §25-1-201(a) and (b) are raised by \$5;
- (F) Increased fee of \$10 per case would generate \$255,090 in additional revenue.

ALLOCATION OF DISTRICT COURT FEES UNDER PRESENT LAW

	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>
TOTAL FEES	\$840,747.03	\$803,703.77	\$788,359.07
STATE SHARE	504,448.22(60%)	482,222.26(60%)	473,015.44(60%)
CO. SHARE	336,298.81(40%)	321,481.51(40%)	315,343.63(40%)

INCOME & ALLOCATION WITH FEE INCREASE

- ASSUME: (A) \$800,000 fee income under existing fee structure; plus
(B) Additional fee income of \$255,090; and
(C) New allocation formula of 30% to counties and 70% to state.

	\$ 800,000	
	+ 255,090	30% to Counties = \$316,527
TOTAL	<u>\$1,055,090</u>	70% to State = \$738,563

DISTRIBUTION OF STATE SHARE

Present formula: 20% of judges' salaries contributed to Judges' Retirement System from state share, remainder to state general fund.

	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>
Retirement System	\$261,418.34	\$268,473.25	\$299,704.94
General Fund	243,029.88	213,749.01	173,310.50

Proposed formula: 31% of judges' salaries contributed to Judges' Retirement System from state share, remainder to state general fund.

TOTAL JUDICIAL SALARIES	\$1,525,150
	x .31%
	<u>\$472,796.50</u>

\$738,563.00	(state share w/increased fees)
-472,796.50	(to Judges' Retirement System)
<u>\$265,766.50</u>	(to state general fund)

COMPARISON OF FILING FEES IN OTHER JURISDICTIONS

	<u>FILE COMPLAINT</u>	<u>ANSWER BY DEFENDANT</u>
MONTANA (Present)	\$20.00	\$10.00
MONTANA (Proposed)	\$25.00	\$15.00
NORTH DAKOTA		
Civil	\$13.00	-----
Divorce	\$28.00	-----
SOUTH DAKOTA		
Civil	\$15.00	-----
Divorce	\$35.00	-----
WYOMING	\$25.00	-----
IDAHO		
Civil	\$41.00	\$21.00
Divorce	\$61.50	
WASHINGTON	\$70.00	-----
FEDERAL	\$60.00	-----

ADDITIONAL CONTRIBUTIONS BY MEMBERS AFTER JULY 1, 1983

Any judge elected, reelected or appointed after July 1, 1983 would contribute 7% of his or her salary to the Judges' Retirement System. Judges presently serving would continue to contribute 6% of their salaries to the Judges' Retirement System until reelected to a new term.

Exhibit B
HB 705
2/15/83

JUDGES'
RETIREMENT SYSTEM

ACTUARIAL VALUATION

AS OF

JULY 1, 1982



1820 Eleventh Avenue • Helena, Montana 59601 • Telephone (406) 442-5222

October 7, 1982

Mr. Lawrence Nachtsheim, Administrator
Public Employees Retirement Division
1712 9th Avenue
Helena, MT 59601

Re: Judges' Retirement System

Dear Larry:

Enclosed is the July 1, 1982 actuarial report for the Judges' Retirement System.

You will note that the cost as a percentage of salary has remained relatively constant since the last valuation, and program remains severely unfunded. We recommend that action be taken to increase the contribution rate by 12% of salaries.

Sincerely,

Alton P. Hendrickson, ASA

1m1

Enclosure

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SECTION I

INTRODUCTION

An actuarial valuation of the Judges' Retirement System of the State of Montana has been completed as of July 1, 1982. This valuation was authorized by the Public Employees' Retirement Board under Section 19-5-201, M.R.C. The purpose of the valuation was to determine the financial position of the fund, the normal cost, and the unfunded accrued liability based upon present and prospective assets and liabilities of the fund as of July 1, 1982.

Section II presents an analysis of the results of the actuarial valuation. The numerical findings supporting this analysis are shown in Section III.

In conducting the actuarial valuation, certain assumptions were made as to the future experience of the system. A summary and discussion of each of the assumptions is contained in Section IV.

The valuation was based upon the Judges' Retirement Act and incorporates all amendments as of July 1, 1982. A summary of the major provisions of the Act is contained in Section V.

ACTUARIAL CERTIFICATION

Based upon the assumptions stated in this report and the employee data and other records provided by the Public Employees' Retirement Division, the actuarial valuation contained in this report has been performed in accordance with generally accepted actuarial principles and techniques.


Alton P. Hendrickson
Member, American Academy
of Actuaries

SECTION II
ANALYSIS OF VALUATION

As a result of the valuation conducted as of July 1, 1982, we have determined that a contribution rate of 33.40% of salary is required to fund benefits as they accrue in the future. An additional 11.94% is required to amortize the current unfunded liability over a 40 year period. The total recommended contribution rate for the Judges' Retirement System is 45.34% of salary.

The recommended rate has increased from 44.97% in 1980 to 45.34% in 1982. This increase is attributable to the increase in salaries and monthly benefits. The payroll increased 29.2% with average salaries increasing from \$35,766 in 1980 to \$42,365 in 1982. The annual benefits paid increased 17.9% with average annual benefits increasing from \$15,257 in 1980 to \$16,695 in 1982.

The regular contribution rate for funding the Judges' Retirement System is 32% of each judge's salary. This rate is comprised of 6% from the state, 20% from district court fees and 6% from each member. In addition, one-fourth of the fees collected by the supreme court are contributed to the system. This amount represents approximately 1% of salary which allows a total rate of approximately 33% of each member's salary.

The current contribution rate is barely adequate to meet the cost of the benefits as they accrue in the future and allows no funding towards the past service liability. It is therefore imperative that the contribution rate be increased substantially. The total increase recommended by this report is approximately 12%.

SECTION III

SCHEDULE 1

NORMAL COST ALLOCATION

(1) Normal Cost Contribution Rate:

(a) Retirement	21.598%
(b) Death	4.171
(c) Disability	7.632

(d) Total Rate	33.401%

(2) Present Value of Future Salaries
Of Current Members

\$12,515,480

(3) Present Value of Future Normal Costs
For Current Members (1(d) x (2))

\$ 4,180,296

SCHEDULE 2

PRESENT VALUE OF BENEFITS

(1) Present Value of Benefits - Inactive Members	
(a) Retirement	\$ 1,730,158
(b) Death	227,785
(c) Disability	1,091,836
(d) Vested	410,373

(e) Total Inactive	\$ 3,460,152
 (2) Present Value of Benefits - Active Members	
(a) Retirement	\$ 7,590,349
(b) Death	947,977
(c) Disability	1,651,534

(d) Total Active	\$10,189,860

 (3) Total Liabilities	\$13,650,012

SCHEDULE 3

CONTRIBUTION AND LIABILITY ALLOCATIONS

(1) Unfunded Accrued Liability

(a) Present Value of Benefits	\$ 13,650,012
(b) Present Value of Future Normal Costs	4,180,296
(c) Fund Assets	3,908,270

(d) Unfunded Liability (a)-(b)-(c)	\$ 5,561,446

(2) Contribution Rates Amortized Over 40.00 Years

(a) Present Value of Salaries During Next 40.00 Years	\$ 46,585,004
(b) Unfunded Contribution Rate 1(d)/2(a)	11.938%
(c) Normal Cost Rate (Schedule 1)	33.401%

(d) Total Funding Rate	45.339%

SCHEDULE 4

COMPARISON OF VALUATIONS

	<u>1980</u>	<u>1982</u>
Liability for Future Service	\$3,052,453	\$4,180,296
Unfunded Liability	\$4,221,166	\$5,561,446
Assets	\$2,769,292	\$3,908,270
Normal Cost Rate	33.19%	33.40%
Unfunded Liability Rate	11.78%	11.94%
Total Recommended Rate	44.97%	45.34%
Annual Payroll	\$1,180,287	\$1,525,150
Annual Benefits	\$ 198,325	\$ 233,736
Number of Active Members	33	36
Number of Retired Members	9	10
Number of Disabled Members	3	3
Number of Survivors	1	1
Number of Inactive Members	1	2

SCHEDULE 5

TABLE 1

NUMBER OF ACTIVE MEMBERS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			1	2	3		1	1	4		12
5-9					1		1	2		2	6
10-14							2	2	3	1	8
15-19						1	1		1	1	4
20-24								1	1	2	4
25-29										1	1
30-34										1	1
35-39											
40-UP											
TOTAL			1	2	4	1	5	6	9	8	36

TABLE 2
ANNUAL SALARIES OF ACTIVE MEMBERS
IN THOUSANDS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			42	84	127		42	42	171		508
5-9					43		42	84		84	253
10-14							84	84	127	42	337
15-19						42	42		42	42	168
20-24								42	44	85	171
25-29										42	42
30-34										42	42
35-39											
40-UP											
TOTAL			42	84	170	42	210	252	384	337	1521

TABLE 3
AVERAGE SALARIES OF ACTIVE MEMBERS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			42125	42125	42486		42125	42125	42666		42395
5-9					43208		42125	42125		42125	42305
10-14							42125	42125	42486	42125	42260
15-19						42125	42125		42125	42125	42125
20-24								42125	44288	42666	42936
25-29										42125	42125
30-34										42125	42125
35-39											
40-UP											
TOTAL			42125	42125	42666	42125	42125	42125	42726	42260	42365

TABLE 4
SUMMARY OF RETIREES

NUMBER OF MEMBERS

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1	1	3	1	2	2	10

TOTAL MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1694	1426	3381	1832	2342	1726	12401

AVERAGE MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1694	1426	1127	1832	1171	863	1240

TABLE 5
SUMMARY OF DISABLED

NUMBER OF MEMBERS

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	3	0	0	0	0	3

TOTAL MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	5516	0	0	0	0	5516

AVERAGE MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	1839	0	0	0	0	1839

TABLE 6
SUMMARY OF SURVIVORS

NUMBER OF MEMBERS

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1	0	0	0	1

TOTAL MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1560	0	0	0	1560

AVERAGE MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1560	0	0	0	1560

SECTION IV

ACTUARIAL FUNDING METHOD AND ASSUMPTIONS

The true cost of the Judges' Retirement System will be determined by its future experience. In determining the financial requirement of the fund, certain assumptions were made as to the expected future experience. This section summarizes the funding method applied as well as the basic assumptions used.

Any variations in the actual experience of the fund from those assumed in this valuation may cause changes in the projected future costs of the fund. It is therefore necessary that the actuarial assumptions be reviewed from time to time with adjustments as experience warrants. It is also important that regular valuations be performed to determine the financial effect of variations between the actual and assumed experience.

The assumptions shown below were based upon the past experience of the fund together with the projections as to future experience.

FUNDING METHOD

The method of funding employed is commonly referred to as the entry age normal cost method. This method establishes a normal cost of each fund as well as an unfunded accrued liability. The normal cost is the level percentage of total salaries required to fund the benefits, assuming this percentage has been contributed since each member's entry into the fund.

The unfunded accrued liability represents the excess of the present value of total liabilities over the present assets of the fund and the present value of expected future contributions for the normal cost.

In order to maintain the fund on an actuarially sound basis, the rate of contribution should be such as to meet the normal cost in addition to making progress towards the amortization of the unfunded liability.

ACTUARIAL ASSUMPTIONS

Mortality Rates

The mortality rates are based upon the 1971 Group Annuity Mortality Table.

<u>Age</u>	<u>Death Per 100,000</u>
25	62
30	81
35	112
40	163
45	292
50	529
55	852
60	1,312
65	2,126
70	3,611
75	5,529
80	8,743
85	13,010

Disability Rates

The disability rates are based upon the rates published by the Railroad Retirement Board in its seventh valuation.

<u>Age</u>	<u>Disabilities per 100,000 Active Members</u>
25	30
30	30
35	40
40	90
45	190
50	340
55	620
60	1,822
65	3,150

Salary Scale

The salary increases are based on projected experience with an underlying inflationary adjustment of 5½% representing cost-of-living increases

<u>Age</u>	<u>Expected Salary at age 65 as a Multiple of Current Salary</u>
40	4.29
45	3.21
50	2.40
55	1.79
60	1.34
65	1.00

Investment Earnings

A rate of 7% per annum was assumed for future investment earnings.

SECTION V

SUMMARY OF BENEFITS AND CONTRIBUTIONS

Effective Date - July 1, 1967

Member Contributions - 6% of salary

State Contributions - 6% of active judges' salaries, plus 20% of salaries payable from district court fees in addition to one-fourth of supreme court fees.

Retirement Benefit - Minimum service: 5 years
Minimum age: 65
Mandatory retirement: 70

Normal form: Life annuity with a death benefit equal to the present value of the retirement allowance at the date of retirement less retirement benefits paid to date (full cash refund annuity).

Benefit: $3 \frac{1}{3}\%$ of the current monthly salary for the office retired from for each of the first 15 years of credited service, plus 1% per year of such monthly salary for each year of service in excess of 15 years.

Disability Benefit - Service disability: Larger of 50% of monthly salary and accrued benefit.

Non-service disability: Actuarial equivalent of the member's accrued retirement benefit; or accrued retirement benefit if over age 60.

Death Benefit - Service death: Member's accrued retirement benefit.

Non-service death: Actuarial equivalent of the benefit which would have been payable had the member terminated for reasons other than death.

SECTION V
(CONTINUED)

Termination Benefit -

If service discontinued prior to completion of 5 years of service, return of accumulated contributions without interest. If service discontinued after 5 years but less than 12 years of service, either return of the aggregate of accumulated contributions with interest or the actuarial equivalent of the member's accrued benefit. After 12 or more years, either return of the aggregate of accumulated contributions plus interest or the accrued retirement benefit.

MINUTES OF THE JUDICIARY COMMITTEE
February 16, 1983 - P.M.

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 4:35 p.m. in room 224A of the capitol building, Helena, Montana. All members were present with the exception of Representative Iverson, who was excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

EXECUTIVE SESSION

HOUSE BILL 705

CHAIRMAN DAVE BROWN noted that both the subcommittees on State Administration and Judiciary met and have agreed on the intent of some amendments to this bill. Ms. Desmond passed out the proposed amendments. See EXHIBIT A.

REPRESENTATIVE SPAETH moved that the bill DO PASS. REPRESENTATIVE ADDY seconded. REPRESENTATIVE SPAETH moved the amendments. REPRESENTATIVE DARKO seconded.

REPRESENTATIVE SPAETH commented that one of the problems is that the cost-of-living increase keeps going into the judge's retirement; that is why it throws off all the actuarial tables and essentially what the subcommittees agreed to do through the proposed amendments is change the system with respect to a new judge coming into the system. Under the bill as amended, a new judge will retire at the salary he last had in the system. He explained that they also increased from 30 to 32 per cent the amount going to the counties.

REPRESENTATIVE HANNAH asked if this affects any judges currently retired. REPRESENTATIVE SPAETH replied no, that these judges have retired under the existing retirement system and the changes would only apply to the new judges coming into the system.

REPRESENTATIVE RAMIREZ wondered if this was clearly within the title of the bill. REPRESENTATIVE SPAETH responded that Lois, the staff person for State Administration, felt that it was and that it was borderline, he supposed, but he thought that it was within the title.

REPRESENTATIVE ADDY wondered if Mr. Steve Brown participated in the drafting of the amendments. REPRESENTATIVE SPAETH answered that he was sure that the judges were not enamored or excited over the whole thing, but it was something that Mr. Brown indicated that they were going to have to live with.

The motion carried with REPRESENTATIVE RAMIREZ, REPRESENTATIVE ADDY and REPRESENTATIVE JENSEN voting no.

Judiciary Committee
February 16, 1983 - P.M.
Page Two

REPRESENTATIVE SPAETH moved that the bill DO PASS AS AMENDED.
REPRESENTATIVE CURTISS seconded the motion.

REPRESENTATIVE JENSEN wondered on page 2, line 22, if 33 per cent was just another best guess. REPRESENTATIVE SPAETH replied that it is a little of best guessing, but he talked with Mr. Nachtsheim of the retirement system and that is what they came up with as very, very, very rough figures. He stated that it is their intention to see if they cannot come up with better figures as this bill progresses along the line. He commented that the overall bill is very important because the retirement system is going to go on the rocks if they don't do something and he said there may be some additional changes when it gets into the Senate.

REPRESENTATIVE HANNAH asked if this would stabilize this fund in the future. REPRESENTATIVE SPAETH replied that that is the problem they have with the amendments - they do not know what it does. He explained that the actuarial tables are complicated, they do not know about the judges coming into the system, younger judges are coming into the system and he said that it may be much more than a band-aid approach; it may have helped solve the problem for a longer period of time than they had originally expected. He added that they just do not have the data right now to see what all the ramifications are.

REPRESENTATIVE RAMIREZ said that he felt that there was a real serious question; obviously we have to have this bill, but we are really changing this bill very markedly. He indicated that it is difficult for a lawyer to stand up and defend the judges because everyone thinks they are defending them out of self-interest; but he did not think that they were given an adequate hearing for such a material change; there are reasons why judges' retirement systems might be different from retirement systems for other people and despite the fact that everyone believes that judges make a great deal of money, they don't make as much as lawyers in private practice as a rule. He continued that what you pay a judge depends on the quality of the judge you get and he thought there is room for improvement and they are making a very dramatic change in this retirement fund.

CHAIRMAN DAVE BROWN pointed out that they can kill this bill or pass it and hope that there is enough information when it gets to the Senate.

Judiciary Committee
February 16, 1983 - P.M.
Page Three

REPRESENTATIVE SPAETH informed the committee that the judges did retire at a set salary at one time; they have been trying to get information as to why the cost-of-living increase was put in and why the change was made. He commented that by the time this gets to the Senate and by the time it comes back here, this may be an entirely different bill. He said that State Administration was pretty adamant about putting it in here.

REPRESENTATIVE EUDAILY noted that if we did not put it in, the figures they have in this bill will take care of their unfunded liability and for their projections in the future. He believed that the only thing that he can see they are doing by adopting these amendments, is that the Senate could have a hearing and these judges can come and cry. He did not feel that it would hurt to have the amendments go over to the Senate this way.

A vote was taken on the motion and the motion carried unanimously.

HOUSE BILL 478

REPRESENTATIVE HANNAH moved that this bill DO PASS. REPRESENTATIVE RAMIREZ seconded the motion. REPRESENTATIVE ADDY moved that this bill DO NOT PASS. This motion was seconded by REPRESENTATIVE JENSEN.

REPRESENTATIVE ADDY said that this was the second good faith bill that was put in and it duplicates the language in HB 381; and the people that testified said that this was not the way to go. REPRESENTATIVE HANNAH replied that there is a dispute over the proper place where the good faith exception should be - in rules of evidence or rules of search and seizure. He said that HB 478 puts it under rules of evidence. He continued that he felt there was really no fundamental difference in which section it was in.

REPRESENTATIVE KEYSER made a substitute motion that this bill be tabled. REPRESENTATIVE CURTISS seconded the motion. The motion carried with REPRESENTATIVE RAMIREZ and REPRESENTATIVE HANNAH voting no.

February 16, 1983

MR. SPEAKER:

We, your committee on JUDICIARY AND STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 705

First reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING CERTAIN DISTRICT COURT FEES; REDISTRIBUTING THE PERCENTAGE AMOUNT OF COURT FEES DEPOSITED IN THE COUNTY AND STATE GENERAL FUNDS; INCREASING CERTAIN MEMBERS' CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM; INCREASING THE AMOUNT OF COURT FEES DEPOSITED IN THE RETIREMENT SYSTEM; AMENDING SECTIONS 19-5-402, 19-5-404, AND 25-1-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 705

BE AMENDED AS FOLLOWS:

1. Title, line 5.

Following: "AN ACT"

Insert: "REDEFINING FINAL SALARY FOR FUTURE MEMBERS OF THE JUDGES' RETIREMENT SYSTEM;"

2. Title, line 11.

FOLLOWING: line 10

Insert: "19-5-101,"

3. Page 1.

Following: line 14

Insert: "Section 1. Section 19-5-101, MCA, is amended to read:

"19-5-101. Definitions. Unless a different meaning is plainly implied by the context, the following definitions apply in this chapter:

(1) "Accumulated deductions" means the total of the amounts deducted from the salary of a contributor, paid into the fund, and standing to his credit in the fund, together with the regular interest thereon.

DOUBASS

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables in use by the system.

(3) "Beneficiary" means the person whom the contributor nominates by written designation, duly acknowledged and filed with the board.

(4) "Board" means the public employees' retirement board.

(5) "Contributor" means any person who has accumulated deductions in the fund standing to his credit.

(6) "Final salary" means:

(a) for a member joining the retirement system before July 1, 1983, the annual current salary for the office retired from; or

(b) for a member joining the retirement system on or after July 1, 1983, the annual salary for the office retired from as of the date of retirement.

(7) "Fund" means the Montana judges' retirement system agency account.

(8) "Involuntary retirement" means a retirement not for cause and before retirement age.

(9) "Member's annuity" means payments for life derived from contributions made by the contributor.

(10) "Penalty retirement age" means 70 years of age.

(11) "Retired judge" means any judge or justice in receipt of a retirement allowance under this chapter.

(12) "Retirement allowance" means the state annuity plus the member's annuity.

(13) "State annuity" means payments for life derived from contributions made by the state of Montana."

Renumber: subsequent sections.

Page 2, line 22

Strike: "308"

Insert: "329"

Page 3, line 21

Strike: "708"

Insert: "688"

AND AS AMENDED
DO PASS

Rep. Joe Brand, Chairman

Rep. Dave Brown

Chairman.

48th

LEGISLATIVE SESSION

COMMITTEE ON Senate Judiciary

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
616	2-14-83	3-8-83	3-8-83					3-8-83	
617	3-1-83	3-17-83	3-17-83				3-17-83		
618	2-16-83	3-18-83	3-19-83				3-19-83		
619	2-16-83	3-10-83	3-10-83				3-10-83		
628	2-16-83	3-7-83	TABLED						
629	2-14-83	3-17-83	3-17-83				3-17-83		
642	2-17-83	3-8-83	3-10-83					3-10-83	
660	2-18-83	3-9-83	3-14-83					3-14-83	
662	3-16-83	3-18-83	3-22-83					3-22-83	
677	3-2-83	3-21-83	3-21-83				3-21-83		
678	3-2-83	3-18-83	3-19-83				3-19-83		
684	2-18-83	3-23-83	3-23-83				3-23-83		
705	3-1-83	3-16-83	3-19-83					3-22-83	
714	3-24-83	3-25-83	3-25-83					3-25-83	
731	3-1-83	3-21-83	3-21-83				3-21-83		
741	3-1-83	3-16-83	3-16-83				3-16-83		

QUESTIONS FROM COMMITTEE: Senator Mazurek questioned why the grandfather clause was necessary.

Mr. Anderson answered that there are a number of reporters who have been practicing in Montana for a number of years who will be able to be grandfathered into the system. The grandfather clause was amended in - it was omitted when the bill was drawn up.

Senator Crippen said there are some reporters who are not competent and they could be grandfathered in.

Mr. Anderson replied that's why the six-month clause is in there. There have been some people moving into Montana that have not passed a certification test.

There being no further proponents or opponents or questions from the committee, hearing on HB 774 was closed.

CONSIDERATION OF HOUSE BILL 705: Representative Spaeth, House District 71, sponsored the bill by request of the Public Employees' Retirement System. This bill will accomplish four main things:

1. Increases certain district court fees. The reason for increasing the fees is because the judges retirement system is not actuarially sound.
2. In order to have those fees transferred into the judges retirement system, the change has been made on Page 4 reducing the amount of the fees deposited into the county general fund from 40 to 32 percent.
3. Increases from 6% to 7% the contribution of judges elected or appointed to office after July 1, 1983.
4. At the present time, a judges retirement benefit is based upon his current salary. The retirement of future judges coming into the system would not be based on current salary, but on salary at the time he retires.

The first proponent of the bill was Steve Brown, Lobbyist for the Montana Judges Association. He asked: "Why do we need this bill? We need a 12% increase to make the system solvent. He then handed out a fact sheet concerning House Bill 705 (Exhibit 2). He also proposed an amendment to House Bill 705 (Exhibit No. 3). For the Committee's information, Mr. Brown also handed out a fact sheet comparing several Judicial retirement systems (Exhibit 4).

Larry Nachtsheim, Administrator of the Public Employees Retirement System, stated that he thought Representative Spaeth and Steve Brown explained the bill well and he would support the bill.

Ward Shanahan representing the Executive Commission of the Bar Association, stated that the Association authorized him to support this bill.

Paul Keller, Chairman of the Judicial Committee of the State Bar of Montana, said the Committee supported this bill to give judges something to look forward to in retirement. The judges don't make that much money and they need a retirement plan.

There being no further proponents or opponents, Senator Turnage asked for questions from the Committee.

Senator Mazurek asked for Mr. Brown to clarify for him whether, if a judge is elected to office and then involuntarily retired, he is immediately eligible for full state retirement benefits.

Mr. Nachtsheim stated he would be after 12 years of service. He also gave the benefit formula for a judge that served a shorter term.

Representative Spaeth closed by saying he had no problems with the amendment proposed by Steve Brown. This bill was heard by both the House Judiciary Committee and the House State Administration Committee shortly before transmittal deadline and this was the reason the bill comes to the Committee in the condition that it is in.

DISPOSITION OF HB 705: A motion was made by Senator Crippen that amendment to HB 705 be adopted but was never acted on or withdrawn.

Senator Mazurek explained an amendment he would like to offer, and asked Mr. Brown what would be accomplished with his amendment.

Steve Brown replied, if you strike the language as proposed a judge simply has to wait until sixty-five or he can take an actuarial reduction.

Senator Turnage suggested that the Committee wait until tomorrow as there is another bill they should look at.

DISPOSITION OF HOUSE BILL 741: A motion was made by Senator Halligan that House Bill 741 BE CONCURRED IN. The motion carried with Senator Daniels voting no.

DISPOSITION OF HOUSE BILL 774: Senator Turnage offered a suggested amendment to House Bill 774. This amendment would be on Page 2, line 24, Following "writing" by inserting: "or electronic means, if the reporter is certified in shorthand or machine writing,".

Senator Berg moved the adoption of the amendment. Motion carried unanimously.

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 3-16-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

(3-16-83)

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VISITORS' REGISTER

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HOUSE BILL 705

The following comparison of salary and retirement benefits for supreme court and district court judges was compiled from "Judicial Retirement Plans", a project of the American Judicature Society (1980).

GENERAL CONCLUSIONS

1. Nine states fund judicial retirement plans entirely from state revenues and filing fees (Maine, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, Rhode Island, Utah and Wyoming). The remaining states fund judicial retirement systems through a combination of member contributions and state and court filing fee revenues. The percentage contribution by judges ranges from 11% of salary in Louisiana to 1/2% of salary in Ohio. Montana's judges currently contribute 6% of their salaries to the Judges' Retirement System. House Bill 705 raises member contributions to 7%.

2. Three states in the Western region (Wyoming, Nevada and Utah) pay 100% of the retirement system costs for their judges. Only three states in the region (Arizona, New Mexico and South Dakota) require greater contributions from members than Montana.

3. Thirty-one states, including Montana, require judges to participate in the judicial retirement plan. Participation is voluntary in the other states.

4. In addition to Montana, three states (Idaho, North Dakota and Wyoming) base retirement benefits on the current salary of the judicial office. Utah and South Dakota also provide for a limited annual percentage increase in retirement benefits for judges.

5. For the four states which base retirement benefits on final salaries and do not provide for automatic annual increases in benefits, the percentage of salary figure for

is voluntary in the other states.

4. In addition to Montana, three states (Idaho, North Dakota and Wyoming) base retirement benefits on the current salary of the judicial office. Utah and South Dakota also provide for a limited annual percentage increase in retirement benefits for judges.

5. For the four states which base retirement benefits on final salaries and do not provide for automatic annual increases in benefits, the percentage of salary figure for retirement benefits is substantially higher. A judge who serves 20 years in Arizona, Kansas, Nevada and New Mexico receives the following percentage of final salary:

Arizona	66%
Kansas	65%
Nevada	66%
New Mexico	75%

A judge who serves for 20 years in Montana can retire at 55% of salary but does receive an "automatic" increase in retirement benefits in that the 55% figure is tied to the current salary of the office.

6. A higher retirement figure based on final salary provides a much greater and more immediate retirement benefit for a judge, as illustrated by a comparison of the retirement systems in Montana and Kansas. Assume an Associate Justice of the Supreme Court retires based on 1982 salaries after 20 years of service in both states.

	<u>MONTANA</u>	<u>KANSAS</u>
1982 Salary	\$47,023.00	\$50,558.00
% of salary	<u>.55</u>	<u>.65</u>
Retirement Salary	\$25,862.65	\$32,862.70

The Kansas Associate Justice retires at a salary \$7,000.05 higher than the Montana Justice. The current salaries of Montana's Associate Justices would have to be raised to \$60,000 annually before a retired Associate Justice would receive the same retirement benefits as a Kansas Associate Judge.

7. Montana's Supreme Court and District Judges are paid substantially less than their counterparts in the 9 adjoining states. The average salaries for the 9 neighboring states surveyed are approximately \$5,000 higher than Montana's judicial salaries. North Dakota's judicial salaries are \$5000 to \$7000 higher than Montana's. Wyoming's judicial salaries are at least \$15,000 higher than Montana's.

8. The Legislature has traditionally recognized that Montana's judges are paid less than their counterparts in the adjoining states. The legislative justification for lower salaries has been that Montana's judges have a better retirement system than judges in the region. The attached comparison of retirement systems indicates that is not the case.

9. Montana's Supreme Court Justices have a substantially higher caseload than the highest courts in Idaho, North Dakota, South Dakota and Wyoming, as illustrated by the following:

<u>STATE</u>	<u>CASE FILINGS - 1981</u>
Montana	574
Idaho	455
North Dakota	382
South Dakota	343
Wyoming	205

Despite the greater workload, Montana's justices are paid substantially less than their counterparts in North Dakota and Wyoming (see paragraph 7). Montana's justices are paid \$100 to \$200 more than their colleagues on the South Dakota Supreme Court and \$250 to \$900 more than their colleagues in Idaho.

COMPARISON OF SALARY AND RETIREMENT BENEFIT
COURT AND DISTRICT COURT JUDGES WHO SERVED

	*Salaries: Chief Justice Assoc. Justice District Judge	**Retirement Benefit (20 Years of Service)	When Retirement Vests	Member Contribution
Nevada	N/A \$61,500 56,000	66% of final salary	12 years of service and age 60	None
New Mexico	\$50,500 49,500 45,000	75% of final salary	16 years of service and age 60 or 5 years of service and age 64	10% of salary
North Dakota	\$55,400 53,900 50,600	50% of current salary of office	Age 65, 20 years; Age 66, 18 years; Age 70, 10 years	5% of salary
South Dakota	\$48,000 46,900 43,750	60% of final salary	Age 55 (reduced benefits)	8% of salary

* Salary figures are 1982 calendar year salaries

** The retirement system comparisons are based on a 1980 publication entitled

RETIREMENT BENEFITS FOR SUPREME
COURT JUDGES WHO SERVE 20 YEARS

Page 2

	Member Contributions	State Contributions	Death Benefits	Disability Benefits	Automatic Cost of Living Increase
of nd	None	100% of total system cost	Yes	No	No
of nd 5 service 4	10% of salary	All remaining system costs	Yes	Yes, after five years of service	No
0 e 66, Age ars	5% of salary	Not available	Yes	Yes, compen- sated for remainder of term and then receives retirement benefits	Yes
duced.	8% of salary	State matches member contributions	Yes	Yes, if 3 years of service and not eligible for early retirement	Yes (2% per year)

Publication entitled Judicial Retirement Plans, by Timothy Pyne, published
by American Judicature Society

under a contract for deed. The purchaser now is not required to be notified of certain things which affect the property. Under HB812, holders of any purchasing interest in the property would be notified of all legal actions taken on the property.

PROPOSERS: Mr. Greg Groepper of the Montana Department of Revenue, submitted written testimony (see attached Exhibit "E") and stated that when a notice is served on the Clerk and Recorder, a Realty Transfer Certificate should also be completed to notify the Assessor's Office.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 467: Senator Galt moved that HB467 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL ⁶¹⁸~~628~~: Senator Turnage moved that HB618 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 678: Senator Turnage moved that HB678 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 438: Senator Turnage moved that HB438 BE TABLED. This motion carried with Senator Halligan voting in opposition.

ACTION ON HOUSE BILL 705: Senator Turnage moved that Steve Brown's proposed amendments BE ADOPTED. This motion carried unanimously. Senator Turnage then made a motion that HB705 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 215: Senator Mazurek made a motion that HB215 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 855: Senator Mazurek moved that the amendments proposed by David L. Johnson BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB855 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 257: Senator Mazurek moved that HB 257 and the Statement of Intent BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 331: Senator Galt moved that the first set of amendments to HB331 (see attached Exhibit F) BE ADOPTED. This motion carried unanimously. Senator Turnage moved that HB331 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 031983

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)			✓
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

ACTION ON HOUSE BILL 416: Since Senator Mazurek was concerned with the bill's affect on persons who are mentally ill, he moved that HB416 BE NOT CONCURRED IN. This motion carried with Senator Shaw voting in opposition.

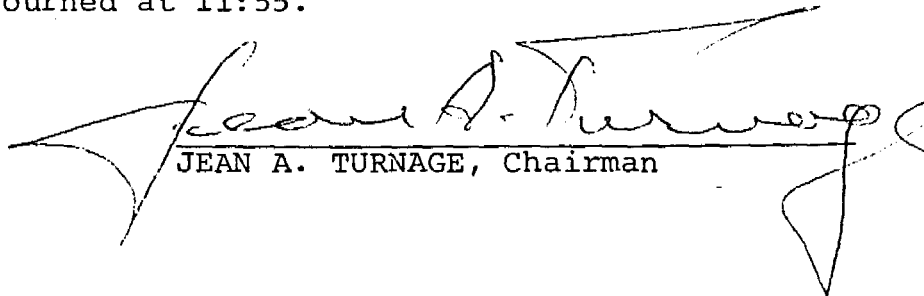
ACTION ON HOUSE BILL 139: Senator Mazurek was concerned with the affect of the Supreme Court case State v. Shea on HB139. Senator Turnage was concerned with the Constitutionality of the presumption of guilt. Senator Crippen moved that HB139 BE NOT CONCURRED IN. This motion carried with Senators Galt and Shaw voting in opposition.

ACTION ON HOUSE BILL 149: Senator Shaw moved that HB149 BE NOT CONCURRED IN. This motion carried with Senator Turnage voting in opposition.

ACTION ON HOUSE BILL 705: Senator Galt moved that the Committee reconsider HB705. This motion carried unanimously. Senator Galt then moved that the proposed amendments of the Committee BE ADOPTED. This motion carried unanimously. Senator Galt then moved that HB705 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 662: Senator Shaw moved that HB662 BE CONCURRED IN. Senator Galt made a substitute motion that the amendments of Steve Brown BE ADOPTED. This motion failed by roll call vote. Senator Shaw moved that the amendments offered by The Montana Power Company and Senator Etchart BE ADOPTED. This motion carried unanimously by roll call vote. Senator Shaw then moved that HB 662 BE CONCURRED IN AS AMENDED. This motion carried by roll call vote.

There being no further business to come before the Committee, the hearing was adjourned at 11:55.


JEAN A. TURNAGE, Chairman

STANDING COMMITTEE REPORT

.....March 22,..... 19...83...

MR.President.....

We, your committee onSenate Judiciary.....

having had under considerationHouse..... Bill No.705

Spaeth (Towe)

Respectfully report as follows: ThatHouse..... Bill No.705.....
be amended as follows:

1. Title, line 6.

Following: "SYSTEM;"

Insert: "PROVIDING THAT A JUDGE ELECTED OR APPOINTED TO OFFICE
ON OR AFTER JULY 1, 1983, WHO RETIRES INVOLUNTARILY BEFORE AGE
65 CANNOT RECEIVE FULL STATE RETIREMENT BENEFITS;"

2. Title, line 12.

Following: "19-5-404,"

Insert: "19-5-503,"

3. Page 5.

Following: line 20

Insert: "SECTION 5. SECTION 19-5-503, MCA, IS AMENDED TO READ:

"19-5-503. Involuntary retirement allowance. (1) If a
contributor is involuntarily discontinued from service after
having completed 5 years of total service but before reaching
retirement age, he shall, upon filing an application in the
manner prescribed by the board, be paid whichever of the following
DO PASS

Continued on p. 2

allowances that he elects:

(a) the full amount of his accumulated deductions; or
(b) a member's annuity of equivalent actuarial value to his accumulated deductions, plus an annuity which is the actuarial equivalent of the present value of the state annuity then standing to his credit.

(2) If a contributor elected or appointed to office prior to July 1, 1983 is involuntarily discontinued from service after having completed 12 years of total service but before reaching retirement age, he shall, upon filing an application in the manner prescribed by the board, be paid whichever of the following allowances that he elects:

(a) the full amount of his accumulated deductions; or
(b) a member's annuity of equivalent actuarial value to his accumulated deductions, plus a state annuity in an amount which, when added to the member's annuity, will provide a total annuity equal to the allowance provided for in 19-5-502.

(3) If a contributor elected or appointed to office after July 1, 1983 is involuntarily discontinued from service after having completed 12 years of total service but before reaching retirement age, he may apply for and receive benefits under this chapter pursuant to subsection (1)."

Renumber: subsequent section

And, as so amended,
BE CONCURRED IN